

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

UNITED STATES OF AMERICA)	
)	
)	
v.)	CRIM NO. 3:05CR234-A
)	
TYRONE WHITE)	
)	
DEFENDANT.)	

MOTION TO COMPEL RETENTION OF GOVERNMENTAL AGENTS' NOTES

COMES NOW the Defendant, Tyrone White, by and through his attorneys of record, Julian L. McPhillips, Jr., pursuant to Federal Rules of Criminal Procedure (F.R.Cr.P.), and files this Motion to Compel Retention of Governmental Agents Notes. As grounds therefore, and in support thereof, the Defendant avers:

1. To the Defendant's knowledge, all of the processing, interviewing, and other facets of the investigation of this case have been conducted by agents of the United States Government.
2. If the aforementioned agents of the U.S. Government appear at trial as witnesses, Defendant will be entitled to the notes they have prepared in connection with this case, pursuant to the Jencks Act, 18 U.S.C. Section 3500.
3. If the aforementioned agents of the U.S. Government destroy the notes they made in connection with this case, the Defendant will be deprived of the use of the notes in cross-examining the agents.
4. Such a deprivation would violate the provisions of 18 U.S.C. Section 3500,

and, possibly, the Sixth Amendment to the U.S. Constitution.

5. If this Court permits the destruction of said notes to be a matter of the agents' discretion, such destruction would constitute a usurpation of this Court's duty to determine whether said notes fall within the provisions of 18 U.S.C. Section 3500 or the Sixth Amendment to the U.S. Constitution.

Wherefore, Defendant moves this Honorable Court to order all agents of the United States government who have been connected with this case in any way to retain their notes pending a determination of whether said notes should be produced at trial.

Respectfully submitted this 19th day of October, 2005.

Electronically signed by
JULIAN L. MCPHILLIPS, JR. MCP004
Attorney for Defendant
P.O. Box 64
Montgomery, AL 36101
334-262-1911

OF COUNSEL:
MCPHILLIPS SHINBAUM, L.L.P
P. O. Box 64
Montgomery, AL 36101
(334) 262-1911

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Compel Retention of Government Agents' Notes was served via hand-delivery on this the 19 day of October, 2005, upon:

Todd Brown
Assistant United States Attorney
Middle District of Alabama
One Court Square Suite 201
Montgomery, AL 36104

Electronically signed by
JULIAN L. MCPHILLIPS, JR.